



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/840,103	05/06/2004	Michael Kutry	1723.040007.	7284

7590

06/13/2006

SIMON, GALASSO & FRANTZ PLC.
P.O. Box 26503
Austin, TX 78755-0503

EXAMINER

DESIR, PIERRE LOUIS

ART UNIT

PAPER NUMBER

2617

DATE MAILED: 06/13/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/840,103	Applicant(s) KUTY, MICHAEL	
	Examiner Pierre-Louis Desir	Art Unit 2617	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 20 March 2006.
 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,2,5,6,8-11,13-15 and 18-20 is/are pending in the application.
 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
 5) ☐ Claim(s) _____ is/are allowed.
 6) ☒ Claim(s) 1,2,5,6,8-11,13-15 and 18-20 is/are rejected.
 7) ☐ Claim(s) _____ is/are objected to.
 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
 10) ☒ The drawing(s) filed on 06 May 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 a) ☐ All b) ☐ Some * c) ☐ None of:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. The Art Unit location of your application in the USPTO has changed. To aid in correlating any papers for this application, all further correspondence regarding this application should be directed to Art Unit 2617.

Response to Arguments

2. Applicant's arguments filed on 03/20/2006 have been fully considered but they are not persuasive.

Applicants have amended claims 1, 11 and 15. And, with the claims being amended, Applicants submit that Hayes does not disclose the use of a scannable code for use in activating the activation system access information or for use in activating the telephone activation information.

Claims 1, 11, and 15 have been amended with the subject matter of cancelled claims 4, 7, 12, and 16. As stated in the previous Office Action, Hayes does specifically disclose a wireless telephone and method wherein the activation system access information is comprised by at least one system-scannable code; the telephone activation information is comprised by at least one system-scannable code; enabling said communication operation includes scanning said at least one system-scannable code for facilitating said receiving telephone activation information.

However, Boivin discloses a system and method for activating a mobile telephone (recyclable reusable) comprises of a universal product code or an activation card associated with the mobile telephone, containing activation information needed to activate the mobile telephone, a point-of sale terminal operable to scan the universal product code or activation card associated

with the mobile telephone to obtain the activation information, and a point-of-sale central computer operable to forward the activation information to a server database system in order to activate the mobile telephone (see abstract, and page 1, paragraph 6).

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1,2,5,6,8-11,13-15 and 18-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hayes in view of Boivin, Pub. No. US 2003/0092435.

Regarding claim 1, Hayes discloses a wireless telephone comprising: on-board circuitry (i.e., CPU 92) configured to enable a predetermined amount of calling time (i.e., timer to track amount of time) (see fig. 3, col. 9, lines 17-18, and col. 10, lines 16-26).

Although Hayes discloses a wireless telephone as described above, Hayes does not specifically disclose a wireless telephone wherein the activation system access information is comprised by at least one system-scannable code; the telephone activation information is comprised by at least one system-scannable code.

However, Boivin discloses a system for activating a mobile telephone (recyclable reusable) comprises of a universal product code or an activation card associated with the mobile telephone, containing activation information needed to activate the mobile telephone, a point-of sale terminal operable to scan the universal product code or activation card associated with the

mobile telephone to obtain the activation information, and a point-of-sale central computer operable to forward the activation information to a server database system in order to activate the mobile telephone (see abstract, and page 1, paragraph 6).

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to combine the teachings as described by Boivin with the teachings of Hayes in order to provide to users a convenient and less costly way to activate recyclable/disposable phone (see page 1, paragraph 5).

Regarding claim 2, Hayes discloses a wireless telephone (see claim 1 rejection) wherein: said on-board circuitry includes memory (i.e., data storage device 98) (see fig. 3, col. 9, lines 33-36); and said memory is configured to enable the predetermined amount of calling time (i.e., a maximum time limit is preprogrammed and stored in the data storage) (see fig. 4A, col. 10, lines 16-26).

Regarding claim 5, Hayes discloses a wireless telephone (see claim 1 rejection) further comprising: activation system access information (see fig. 4A, col. 10, lines 16-26); and telephone activation information embedded in said on-board circuitry (i.e., activation, operation, and deactivation information, which is printed on the outer cover, is inherently embedded in the CPU to effectuate the communication procedure) (see fig. 3, col. 9, lines 17-48), wherein said on-board circuitry is configured for providing said telephone activation information to said activation system in response to said activation system being accessed using said activation system access information (i.e., programming and operation information are stored in the data storage, which is connected to the CPU. The CPU responds to a disablement indication by failing attempts by the telephone to authenticate itself with the network. From the information stored in

Art Unit: 2617

the data storage (provided to the processing unit), the CPU may enable or disable access to the system) (see col. 9, lines 36-48, and col. 10, line 10).

Regarding claim 6, Hayes discloses a wireless telephone (see claim 1 rejection) further comprising: telephone activation information embedded in said on-board circuitry (see fig. 3, col. 9, lines 17-48, and claim 5 reasoning); wherein said on-board circuitry is configured for providing said telephone activation information to said activation system in response to said activation system being accessed using the wireless telephone (i.e., programming and operation information are stored in the data storage, which is connected to the CPU. The CPU responds to a disablement indication by failing attempts by the telephone to authenticate itself with the network. From the information stored in the data storage (provided to the processing unit), the CPU may enable or disable access to the system) (see col. 9, lines 36-48, and col. 10, line 10); wherein said on-board circuitry includes memory (i.e., data storage device 98) (see fig. 3, col. 9, lines 33-36); and wherein said memory is configured to enable the predetermined amount of calling time (see col. 10, lines 16-26).

Regarding claims 8, 13, and 19, Hayes discloses a wireless telephone, and method (see claims 1, 11, and 15 rejections) wherein said on-board circuitry is comprised by a removable module (i.e., SIM card) (see col. 11, line 62 to col. 12, line 3); and the removable module is selectively engagable with and disengagable with other onboard circuitry (see col. 11, lines 62-66).

Regarding claims 9 and 14, Hayes discloses a wireless telephone (see claims 8 and 11 rejections) further comprising: activation system access information (see fig. 4A, col. 10, lines 16-26); and telephone activation information embedded in said on-board circuitry (see fig. 3, col.

9, lines 17-48, and claim 5 reasoning), wherein said on-board circuitry is configured for providing said telephone activation information to said activation system in response to said activation system being accessed from the wireless telephone using said activation system access information (i.e., programming and operation information are stored in the data storage, which is connected to the CPU. The CPU responds to a disablement indication by failing attempts by the telephone to authenticate itself with the network. From the information stored in the data storage (provided to the processing unit), the CPU may enable or disable access to the system) (see col. 9, lines 36-48, and col. 10, line 10).

Regarding claim 10, Hayes discloses a wireless telephone (see claim 9 rejection) wherein: said on-board circuitry includes memory (i.e., data storage device 98) (see fig. 3, col. 9, lines 33-36); and said memory is configured to enable the predetermined amount of calling time (see col. 10, lines 16-26).

Regarding claim 11, Hayes discloses a packaged wireless telephone (see abstract, and col. 19, lines 44-47), comprising: a wireless telephone including on-board circuitry configured to enable a predetermined amount of calling time (see fig. 3, abstract, col. 9, lines 15-18, and col. 10, lines 16-26); packaging having the wireless telephone packaged therein (see col. 19, lines 44-47); activation system access information on at least one of a component of the wireless telephone (see col. 6, lines 62-66); and at least one of telephone activation information on a component of the wireless telephone (see col. 6, lines 62-66) and telephone activation information embedded in said on-board circuitry (see fig. 3, col. 9, lines 17-48, and claim 5 reasoning).

Although Hayes discloses a packaged wireless telephone as described above, Hayes does not specifically disclose a packaged wireless telephone wherein the activation system access information is comprised by at least one system-scannable code; the telephone activation information is comprised by at least one system-scannable code.

However, Boivin discloses a system for activating a mobile telephone (recyclable reusable) comprises of a universal product code or an activation card associated with the mobile telephone, containing activation information needed to activate the mobile telephone, a point-of sale terminal operable to scan the universal product code or activation card associated with the mobile telephone to obtain the activation information, and a point-of-sale central computer operable to forward the activation information to a server database system in order to activate the mobile telephone (see abstract, and page 1, paragraph 6).

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to combine the teachings as described by Boivin with the teachings of Hayes in order to provide to users a convenient and less costly way to activate recyclable/disposable phone (see page 1, paragraph 5).

Regarding claim 15, Hayes discloses a method (see abstract) comprising: configuring on-board circuitry of a wireless telephone to enable a predetermined amount of calling time (see fig. 3, abstract, col. 9, lines 15-18, and col. 10, lines 16-26); providing activation system access information on at least one of packaging having said on-board circuitry packaged, documentation within said packaging, said on-board circuitry and a surface of the wireless telephone (see col. 6, lines 62-66); providing telephone activation information, wherein said telephone activation information is at least one of provided on said packaging, provided on said on-board circuitry,

provided on a surface of the wireless see col. 6, lines 62-66) and embedded in said on-board circuitry telephone (see fig. 3, col. 9, lines 17-48, and claim 5 reasoning); and enabling communication operation of the wireless telephone in response to said activation system receiving said telephone activation information (see fig. 13, col. 21, lines 31-41).

Although Hayes discloses a method as described above, Hayes does not specifically disclose a method wherein the activation system access information is comprised by at least one system-scannable code; the telephone activation information is comprised by at least one system-scannable code; enabling said communication operation includes scanning said at least one system-scannable code.

However, Boivin discloses a system and method for activating a mobile telephone (recyclable reusable) comprises of a universal product code or an activation card associated with the mobile telephone, containing activation information needed to activate the mobile telephone, a point-of sale terminal operable to scan the universal product code or activation card associated with the mobile telephone to obtain the activation information, and a point-of-sale central computer operable to forward the activation information to a server database system in order to activate the mobile telephone (see abstract, and page 1, paragraph 6).

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to combine the teachings as described by Boivin with the teachings of Hayes in order to provide to users a convenient and less costly way to activate recyclable/disposable phone (see page 1, paragraph 5).

Regarding claim 18, Hayes discloses a method (see claim 15 rejection) said activation system access information includes a telephone number (i.e., directory number) (see abstract and

col. 3, lines 29-32, and col. 6, lines 62-66); said telephone activation information includes a human readable code (i.e., function code) (see fig. 13, col. 21, lines 31-41); enabling said communication operation includes calling said activation system using said telephone number and entering said human readable code for facilitating said receiving telephone activation information (see fig. 13, col. 21, lines 31-41).

Regarding claim 20, Hayes discloses a method (see claim 15 rejection) further comprising: configuring said on-board circuitry with said telephone activation information, wherein said on-board circuitry is thereby capable of facilitating transmission of said telephone activation information for reception by said activation system (see fig. 13, col. 19, lines 44-65).

Conclusion

5. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).


A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.


Art Unit: 2617

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Pierre-Louis Desir whose telephone number is (571) 272-7799. The examiner can normally be reached on Monday-Friday 8:00AM- 5:30PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Joseph Feild can be reached on (571) 272-4090. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.


Pierre-Louis Desir
06/07/2006


ERIKA A. GARY
PRIMARY EXAMINER